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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re Application of)
)
WILBURN INDUSTRIES, INC.) File No. BPH-911230MC
)
Application for Construction)
Permit for a new FM station,)
Channel 280A, Westerville, Ohio)

RECEIVED

AUG 6 - 1992

To: Chief, Mass Media Bureau

OPPOSITION TO SUPPLEMENT

Wilburn Industries, Inc. ("Wilburn"), by its ^{FEDERAL COMMUNICATIONS COMMISSION} ~~attorney~~ ^{OFFICE OF THE SECRETARY}
hereby submits its Opposition to the "Supplement to Petition to
Deny and Dismiss" filed by Ohio Radio Associates, Inc. ("ORA") on
July 29, 1992. In support thereof, the following is stated:

In its March 26, 1992 Petition to Deny or Dismiss, ORA
alleged that Wilburn's application must be denied or dismissed
because ORA has applied to construct its station at a fully
spaced site, while the transmitter site specified in Wilburn's
~~mutually exclusive application is short-spaced to that of WTMF-~~

contrast to ORA's strained pleadings, Wilburn's submission established the accuracy of its position by appropriate reference to the Commission's rules, the Commission's language in MM Docket No. 88-375, pertinent rulings of the Mass Media Bureau¹ and simple logic. In its Supplement to Petition, ORA incorrectly urges that a ruling by the Commission in Jemez Mountain Broadcasters, FCC 92-273, released July 1, 1992, confirms the arguments set forth in its initial Petition.

ORA's Supplement to Petition must be dismissed or denied. As an initial matter, its pleading was filed after the deadline established by the Commission's rules. and ORA has neither

indirectly addresses the particular situation in this case. That is, the case is obviously distinguishable and patently inapposite. The arguments advanced by ORA in its Supplement to Petition, which refuse to acknowledge the Commission's language and the Bureau's ruling with respect to Section 73.213 and grandfathered allocations, therefore must be rejected for the reasons set forth in Wilburn's April 9, 1992 Opposition and April 14, 1992 Supplement.

In view of the foregoing, ORA's Supplement to Petition should be dismissed or denied when ORA's initial Petition is denied.

Respectfully submitted,
WILBURN INDUSTRIES, INC.

By:


Eric S. Kravetz

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Its Attorneys

August 6, 1992
ESK:WILBURN.PET

CERTIFICATE OF SERVICE

I, Beverles Jenkins, a secretary at the law firm of Brown Nietert, & Kaufman Chartered, do hereby certify that I have, this 6th day of August, 1992, mailed, via first-class U.S. Mail, postage prepaid, a copy of the foregoing "SUPPLEMENT TO OPPOSITION" to the following:

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Beverles Jenkins

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